IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL URISDICTION.

COMPANY PETITION No.684 of 2006.
CONNECTED WITH
COMPANY APPLICATION No.838/2006.

In the matter of Scheme of Arrangement between Siporex India Limited and its shareholders.

Siporex India Limited. Petitioner.

Mr Hemant Sethi i/b Hemant Sethi & Co. for the Petitioner.

Mr. C.J. Joy with Ms. Madhuri Gaikwad i/b Pankaj Kapoor for R.D.

CORAM: V.C.DAGA,J.

DATED: 09.02.2007.

P.C.:-

1. Petitioner has filed this petition seeking this Court's sanction to the scheme of Arrangement between "Siporex India Limited" and its shareholders (hereinafter referred to as "the Petitioner Company" under Sections 100 and 391 of the Companies Act, 1956. Perused petition.

2. This petition was ordered to be advertised in "Free Press Journal" and "Navshakti". Nobody has come forward to take objection to the Scheme of Amalgamation.

3. The Regional Director, Western Region, Ministry of Company Affairs, has filed affidavit dated 2nd February, 2007 stating therein that he

has no objection for accepting the scheme subject to the compliance of the requirements pointed out in para 6 of the affidavit which read as under:-

> "It is a matter of buy back of shares, attention of this Hon'ble High Court is invited to the provisions of Section 77A (1) of the Companies Act, 1956 wherein there is a separate provisions for buy back of shares and the petitioner instead followed way through section 391 to 394 read with section 100 of the Companies Act, 1956."

4. Although above objection is taken on behalf of the Regional Director that the requirements of Section 77-A of the Companies Act will have to be complied with by the petitioner company. However, this objection as rightly been contended on behalf of the objector is answered by the Division Bench of this Court in the decision reported in **2003 45 SCL 475 (Bom) in the case of SEBI Vs. Sterlite Industries Ltd.)** which deals with the issue of power of the Company Court to sanction the scheme of the present nature. Counsel for the Regional Director, however, contends that this decision is pending in appeal before the Supreme Court, however, he could not produce any interim order staying the effect and operation of the judgment of the Division Bench in the case of SEBI (cited supra). Since there is no other objection other than the objection raised on behalf of the Regional

Director under Section 77-A of the Companies Act, 1956, the objection is over ruled.

5. In the above view of the matter and other material available on record, I am satisfied that the Scheme is not prejudicial to the interest of creditors, shareholders and public at large and a case is made out for sanctioning the Scheme.

6. In the result, Company Petition is made absolute in terms of prayer clauses (a) to (c), subject to payment of costs to Regional Director quantified at Rs. 2,500/-.

7. All concerned including Registrar of Companies to act on an ordinary copy of this order and Scheme annexed to the petition, duly authenticated by the Company Registrar. Filing of drawn up order is dispensed with.

(**V.C. DAGA,J.**)